

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

STEPHEN PAULE KENNEDY,  
Plaintiff,  
  
v.  
  
MICHAEL YEH, et al.,  
Defendants.

Case No. [24-cv-08907-WHO](#) (PR)

**ORDER OF SERVICE;**

**ORDER DIRECTING  
DEFENDANTS TO FILE A  
DISPOSITIVE MOTION OR  
NOTICE REGARDING SUCH  
MOTION;**

**INSTRUCTIONS TO CLERK**

**INTRODUCTION**

Plaintiff Stephen Paule Kennedy alleges that medical staff at Salinas Valley State Prison provided constitutionally inadequate medical care for his broken finger. His first amended 42 U.S.C. § 1983 complaint containing these allegations is now before me for review pursuant to 28 U.S.C. § 1915A(a).

When liberally construed, Kennedy has stated Eighth Amendment deliberate indifference claims against various medical staff at Salinas Valley State Prison. The Court directs these defendants, if appropriate, to file in response to the operative complaint a dispositive motion, or a notice regarding such motion, on or before **April 20, 2026**. Defendants also shall file an answer in accordance with the Federal Rules of Civil Procedure.

No hearing will be held on any motion unless I specifically order one.

**DISCUSSION**

**A. Standard of Review**

1 A federal court must conduct a preliminary screening in any case in which a  
2 prisoner seeks redress from a governmental entity or officer or employee of a  
3 governmental entity. *See* 28 U.S.C. § 1915A(a). In its review, the court must identify any  
4 cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim  
5 upon which relief may be granted or seek monetary relief from a defendant who is immune  
6 from such relief. *See id.* § 1915A(b)(1), (2). Pro se pleadings must be liberally construed.  
7 *See Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988).

8 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a  
9 claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)  
10 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial  
11 plausibility when the plaintiff pleads factual content that allows the court to draw the  
12 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting  
13 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal  
14 conclusions cast in the form of factual allegations if those conclusions cannot reasonably  
15 be drawn from the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55  
16 (9th Cir. 1994).

17 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential  
18 elements: (1) that a right secured by the Constitution or laws of the United States was  
19 violated, and (2) that the alleged violation was committed by a person acting under the  
20 color of state law. *See West v. Atkins*, 487 U.S. 42, 48 (1988).

## 21 **B. Legal Claims**

22 Kennedy alleges that on December 10, 2020 at Salinas Valley State Prison his  
23 finger was broken when two inmates attacked him. (Am. Compl., Dkt. No. 12 at 4.) He  
24 alleges that various medical staff were deliberately indifferent to his serious medical needs  
25 on that day and the days following, thereby violating his Eighth Amendment rights. When  
26 liberally construed, he has stated claims against A. Camacho, a physical therapist; Carl  
27 Bourne, a doctor; Danilo Paraguya, a registered nurse; O.T. Kim, a doctor; Michael Yeh, a  
28 doctor; and Allen Wong, a doctor.

All other claims and defendants are DISMISSED. Kennedy's allegations against unnamed or partially-named defendants (e.g., Anthony, an x-ray technician) are DISMISSED. His conclusory allegations against the California Correctional Health Services and CTC Supervisors for not performing their duties are DISMISSED. Defendants cannot be held liable for a constitutional violation under 42 U.S.C. § 1983 "unless they were integral participants in the unlawful conduct." *Keates v. Koile*, 883 F.3d 1228, 1241 (9th Cir. 2018). Furthermore, there is no respondeat superior liability under § 1983. *Taylor v. List*, 880 F.2d 1040, 1045 (9th Cir. 1989). It is not enough that the supervisor merely has a supervisory relationship over the defendants; the plaintiff must show that the supervisor "participated in or directed the violations, or knew of the violations and failed to act to prevent them." *Id.*

### CONCLUSION

For the foregoing reasons, the Court orders as follows:

1. The Clerk of the Court shall issue summons and the United States Marshal shall serve, without prepayment of fees, a copy of the operative complaint in this matter (Dkt. No. 12), all attachments thereto, on defendants at Salinas Valley State Prison:

A. Camacho, a physical therapist; Carl Bourne, a doctor; Danilo Paraguya, a registered nurse; O.T. Kim, a doctor; Michael Yeh, a doctor; and Allen Wong, a doctor, and orders these defendants to respond to the cognizable claims raised in the complaint.

2. Service on these defendants shall proceed under the California Department of Corrections and Rehabilitation's e-service program for civil rights cases from prisoners in CDCR custody. In accordance with the program, the Clerk is directed to serve on CDCR via email the following documents: the operative complaint (Docket No. 12) and its attachments; this Order; a CDCR Report of E-Service Waiver form; and a summons. The Clerk also shall serve a copy of this Order on the plaintiff.

3. No later than 40 days after service of this order via email on CDCR, CDCR shall provide the Court a completed CDCR Report of E-Service Waiver advising the Court which defendant(s) listed in this Order will be waiving service of process without the need

1 for service by the United States Marshal Service (USMS) and which defendant(s) decline  
2 to waive service or could not be reached. CDCR also shall provide a copy of the CDCR  
3 Report of E-Service Waiver to the California Attorney General's Office which, within 21  
4 days, shall file with the Court a waiver of service of process for the defendant(s) who are  
5 waiving service.

6 4. Upon receipt of the CDCR Report of E-Service Waiver, the Clerk shall  
7 prepare for each defendant who has not waived service according to the CDCR Report of  
8 E-Service Waiver a USM-285 Form. The Clerk shall provide to the USMS the completed  
9 USM-285 forms and copies of this Order, the summons and the complaint for service upon  
10 each defendant who has not waived service.

11 5. Defendants shall file an answer in accordance with the Federal Rules of Civil  
12 Procedure.

13 6. On or before **April 20, 2026**, if appropriate, defendants shall file a motion  
14 for summary judgment or other dispositive motion with respect to the claim(s) in the  
15 complaint found to be cognizable above.

16 a. If defendants elect to file a motion to dismiss on the grounds plaintiff  
17 failed to exhaust his available administrative remedies as required by 42 U.S.C.  
18 § 1997e(a), defendants shall do so in a motion for summary judgment, as required by  
19 *Albino v. Baca*, 747 F.3d 1162 (9th Cir. 2014).

20 b. Any motion for summary judgment shall be supported by adequate  
21 factual documentation and shall conform in all respects to Rule 56 of the Federal Rules of  
22 Civil Procedure. Defendants are advised that summary judgment cannot be granted, nor  
23 qualified immunity found, if material facts are in dispute. If any defendant is of the  
24 opinion that this case cannot be resolved by summary judgment, he shall so inform the  
25 Court prior to the date the summary judgment motion is due.

26 7. Plaintiff's opposition to the dispositive motion shall be filed with the Court  
27 and served on defendants no later than forty-five (45) days from the date defendants'  
28 motion is filed.

1           8.       Defendants shall file a reply brief no later than fifteen (15) days after  
2 plaintiff's opposition is filed.

3           9.       The motion shall be deemed submitted as of the date the reply brief is due.  
4 No hearing will be held on the motion unless the Court so orders at a later date.

5           10.      All communications by the plaintiff with the Court must be served on  
6 defendants, or on defendants' counsel once counsel has been designated, by mailing a true  
7 copy of the document to defendants or defendants' counsel.

8           11.      Discovery may be taken in accordance with the Federal Rules of Civil  
9 Procedure. No further court order under Federal Rule of Civil Procedure 30(a)(2) or Local  
10 Rule 16-1 is required before the parties may conduct discovery.

11           Plaintiff is reminded that state prisoners may review all non-confidential material in  
12 their medical and central files, pursuant to *In re Olson*, 37 Cal. App. 3d 783 (Cal. Ct. App.  
13 1974); 15 California Code of Regulations § 3370; and the CDCR's Department Operations  
14 Manual §§ 13030.4, 13030.16, 13030.16.1-13030.16.3, 13030.21, and 71010.11.1.  
15 Requests to review these files or for copies of materials in them must be made directly to  
16 jail or prison officials, not to the Court.

17           12.      It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the  
18 Court informed of any change of address and must comply with the Court's orders in a  
19 timely fashion. Failure to do so may result in the dismissal of this action for failure to  
20 prosecute pursuant to Federal Rule of Civil Procedure 41(b).

21           13.      Extensions of time must be filed no later than the deadline sought to be  
22 extended and must be accompanied by a showing of good cause.

23           14.      A decision from the Ninth Circuit requires that pro se prisoner-plaintiffs be  
24 given "notice of what is required of them in order to oppose" summary judgment motions  
25 at the time of filing of the motions, rather than when the court orders service of process or  
26 otherwise before the motions are filed. *Woods v. Carey*, 684 F.3d 934, 939-41 (9th Cir.  
27 2012). Defendants shall provide the following notice to plaintiff when he files and serves  
28 any motion for summary judgment:

The defendants have made a motion for summary judgment by which they seek to have your case dismissed. A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine issue of material fact — that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendants' declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.

*Rand v. Rowland*, 154 F.3d 952, 962-963 (9th Cir. 1998).

15. No hearing will be held on any motion unless I specifically order one.

16. The Clerk shall terminate all defendants with the exceptions of A. Camacho; Carl Bourne; Danilo Paraguya; O.T. Kim; Michael Yeh; and Allen Wong.

**IT IS SO ORDERED.**

**Dated:** December 22, 2025



WILLIAM H. ORRICK  
United States District Judge